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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

UNITED STATES OF AMERICA, Plaintiff, v. PHILLIP ANTHONY CARRERO Defendant.	MOTION TO CONTINUE JURY TRIAL Case No. 2:22-cr-00030 TC
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Defendant, Phillip Anthony Carrero (“Carrero”), by and through counsel, Wojciech Nitecki, moves this Court for a continuance of the Jury Trial set for May 23, 2022, to a firm trial date on the master trial calendar in August of 2022, if the Court’s business permits, and to exclude the computation of time between under the Speedy Trial Act, pursuant to 18 U.S.C. § 3161(h)(7)(A), from June 30, 2022 to the next trial setting. This motion is made pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) which allows this Court to grant the motion to continue if it finds that the ends of justice served by the granting of the continuance outweigh the best interests of the public and the defendant in a speedy trial. Defendant bases this Motion on the following grounds:

1. Carrero first appeared in court on March 15, 2022, for his initial appearance on the Indictment returned in this matter. A jury trial was scheduled within the 70-day time period, for May 23, 2022. Thereafter, the General Order 22-006 continued all criminal jury trials excluding time under the Speedy Trial Act until June 30, 2020.
2. This is the first request for a continuance. The delay between June 30, 2022 and the new trial date is excludable under 18 U.S.C. §§ 3161(h)(7)(A) & (h)(7)(B)(iv) since not granting the continuance would deny Carrero continuity of counsel and deny Carrero's counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.
3. Carrero's current counsel filed an appearance on May 10, 2022. Counsel met with his client, reviewed discovery, asked the government to obtain additional discovery, and independently sought additional information. Defense investigation is ongoing but should take no more than four to six weeks to complete. In addition, Carrero is being screened for inpatient drug treatment and he will be seeking review of detention if accepted. Finally, the parties have engaged in some plea negotiations since the change of counsel, but these are ongoing.
4. Counsel has conferred with Carrero about this motion and the Defendant acknowledges that he was advised by his counsel of (a) the reasons for seeking a continuance; (b) understands that the time requested in the continuance may be excluded from any calculation of time under the Speedy Trial Act; and (c) with this understanding and knowledge, Carrero agreed to the filing of the motion. The Defendant agreed to this motion very reluctantly and he was disappointed to learn that the trial has been continued until at least June 30, 2022.

5. There are no co-defendants associated with this case.
6. Assistant United States Attorney, Kevin Sundwall, does not object to the continuance and the motion to exclude.
7. Because the proposed continuance will afford Carrero continuity of counsel and will give his counsel time to complete investigation and pursue pretrial release to treatment, the ends of justice are best served by a continuance of the trial date, and the ends of justice outweigh the interest of the public and Carrero's in a speedy trial.

For the reasons set forth herein, Carrero respectfully requests a continuance of the trial set to presumptively begin May 23, 2022, and requests that the time between June 30, 2022 and the new trial date be excluded from the speedy trial computation pursuant to 18 U.S.C. § 3161(h)(7)(A). To avoid the need for another continuance, Carrero is asking for a firm trial date on the master trial calendar during August of 2022. A proposed order is submitted with this motion.

DATED this 23rd of May, 2022.

/s/ Wojciech Nitecki
WOJCIECH NITECKI
Assistant Federal Defender